

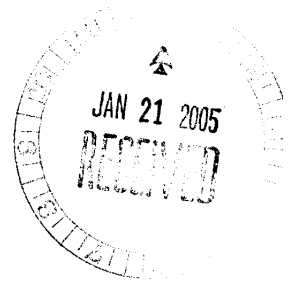
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SARAH WHITLEY BAILIFF
Senior General Attorney

The Burlington Northern and
Santa Fe Railway Company

2500 Lou Menk Drive
Fort Worth, Texas 76131-2828
(817) 352-2354 - Telephone
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Sarah.Bailiff@BNSF.com



January 21, 2005

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

**Re: Surface Transportation Board Finance Docket No. 34648; Minnesota Commercial
Railway Company – Trackage Rights Exemption – The Burlington Northern and
Santa Fe Railway Company**

Dear Secretary Williams:

Enclosed for filing in the referenced docket are the original and ten copies of a Verified Notice of Exemption, and a check for \$1,000.00 covering the filing fee. Twenty unbound copies of the Exhibit 1 map are also enclosed. An electronic copy of the filing is also enclosed on a 3.5 inch disc for the Board's use.

Please acknowledge receipt of this material by date stamping the enclosed copy of this letter and returning it to me in the enclosed self-addressed stamped envelope.

Sincerely,

Sarah Whitley Bailiff/als
Sarah Whitley Bailiff

SWB/js
Encs.

cc: Mr. John W. Gohmann

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Office of Proceedings

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34648

MINNESOTA COMMERCIAL RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY

VERIFIED NOTICE OF EXEMPTION

Sarah W. Bailiff
THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY COMPANY
2500 Lou Menk Drive
P. O. Box 961039
Fort Worth, TX 76161-0039
(817) 352-2354

Dated: January 21, 2005

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 34648

MINNESOTA COMMERCIAL RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY

VERIFIED NOTICE OF EXEMPTION

1. On behalf of Minnesota Commercial Railway Company ("MNNR"), The Burlington Northern and Santa Fe Railway Company ("BNSF") files this verified notice of exemption pursuant to 49 C.F.R. §1180.2(d)(7) for exemption of a modified agreement governing MNNR's existing overhead trackage rights over a BNSF line of railroad between (i) MNNR's connecting trackage at Union Yard, Minneapolis, Minnesota; and (ii) trackage located east of 15th Avenue SE, in Minneapolis MN, comprising the Southeast Minneapolis Switching District.¹ The modification of trackage rights relates to a section of the jointly operated trackage marked on Exhibit 1, and running between point "A" and thence westerly to a point "B," for an

¹ The trackage rights were originally granted as incidental trackage rights as part of MNNR's acquisition of approximately five miles of rail line located in Minneapolis, Minnesota known as the Southeast Minneapolis Switching District, pursuant to an exemption in Finance Docket No. 33606, *Minnesota Commercial Railway Company – Acquisition and Operation Exemption – Certain Lines of The Burlington Northern and Santa Fe Railway Company*, served June 11, 1998.

approximate total distance of 777 feet. BNSF will continue to have unrestricted rights to use the line as provided in the agreement.

Under 49 C.F.R. Section 1180.2(d)(7), the acquisition of trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers is exempt if the rights are (i) based on written agreements, and (ii) not filed or sought in responsive applications in rail consolidation proceedings. The trackage rights modification covered by this notice are covered by the written agreement attached as Exhibit 2 and are not being filed or sought in responsive applications in a rail consolidation proceeding.

2. The following information is provided as required by 49 C.F.R. §1180.4(g)(1)(i):

Section 1180.6(a)(1)(i-iii)

The transaction covered by this notice is the modification of the agreement governing the overhead trackage rights held by MNNR between (i) MNNR's connecting trackage at Union Yard, Minneapolis, Minnesota; and (ii) trackage located east of 15th Avenue SE, in Minneapolis MN, comprising the Southeast Minneapolis Switching District, a distance of approximately 777 feet.

The carriers involved in this transaction and their business addresses are as follows:

Minnesota Commercial Railway Company
14047 Petronella Drive
Suite 201
Libertyville, IL 60048

The Burlington Northern and Santa Fe Railway Company
2600 Lou Menk Drive
P. O. Box 961034
Fort Worth, TX 76161

Questions regarding this exemption should be sent to Sarah W. Bailiff, Senior General Attorney, The Burlington Northern and Santa Fe Railway Company, P.O. Box 961039, Fort Worth, TX 76161-0039. The phone number is (817) 352-2354.

Consummation of the transaction will occur on January 28, 2005, and operations under this exemption are planned to begin on that date. The modified agreement will change the

maintenance obligations in order to promote operating and maintenance efficiencies and better align the parties' maintenance obligations relative to usage.

Section 1180.6(a)(5)

The trackage involved in this modified trackage rights agreement is located in the state of Minnesota. MNNR operates in the state of Minnesota. BNSF operates in the states of Alabama, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and Wyoming, and Canadian provinces of British Columbia and Manitoba.

Section 1180.6(a)(6)

The required map is attached hereto as Exhibit No. 1.

Section 1180.6(a)(7)(ii)

A copy of the modified agreement covering this transaction is attached hereto as Exhibit No. 2.

Section 1180.4(g)(1)(i)

The applicable labor protection conditions are those imposed in Norfolk and Western Ry. Co.--Trackage Rights--BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.--Lease and Operate, 360 I.C.C. 653 (1980).

Section 1180.4(g)(2)(i)

A caption summary of this transaction suitable for publication in the Federal Register is attached as Exhibit 3.

Section 1180.4(g)(3)

This transaction does not require the filing of an environmental report or an historic report under 49 C.F.R. §1105.6(c)(4) and §1105.8(b)(3) respectively.

Respectfully submitted,

Sarah W. Bailiff

Sarah W. Bailiff
THE BURLINGTON NORTHERN
AND SANTA FE RAILWAY COMPANY
2500 Lou Menk Drive
P. O. Box 961039
Fort Worth, TX 76161-0039
(817) 352-2354

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Finance Docket No. 34648

MINNESOTA COMMERCIAL RAILWAY COMPANY
--TRACKAGE RIGHTS EXEMPTION--
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY
COMPANY

The Burlington Northern and Santa Fe Railway Company ("BNSF") has agreed to a modified trackage rights agreement governing the overhead trackage rights held by Minnesota Commercial Railway Company ("MNNR") between (i) MNNR's connecting trackage at Union Yard, Minneapolis, Minnesota; and (ii) trackage located east of 15th Avenue SE, in Minneapolis MN, comprising the Southeast Minneapolis Switching District., a total distance of approximately 777 feet. The trackage rights will be effective on January 28, 2005.

This notice is filed under §1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated:
By the Board,
Vernon A. Williams,
Secretary.

VERIFICATION

THE STATE OF TEXAS §
 §
COUNTY OF TARRANT §

Sarah W. Bailiff, Senior General Attorney of The Burlington Northern and Santa Fe Railway Company, under penalty of perjury, declares and verifies that she has read the foregoing Notice of Exemption in Finance Docket No. 34648, knows the facts stated therein, and that said facts are true as stated.

Dated: January 19, 2005.


Sarah W. Bailiff

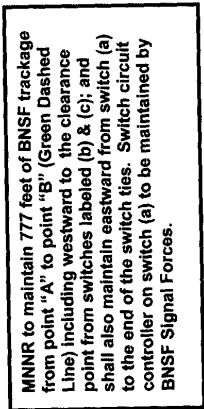
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Verified Notice of Exemption was served on the following person via UPS Overnight Mail on January 21, 2005:

John W. Gohmann, President
Minnesota Commercial Railway Company
14047 Petronella Drive
Suite 201
Libertyville, IL 60048



Exhibit "A"



**SUPPLEMENT TO TRACKAGE RIGHTS AGREEMENT
BETWEEN BNSF AND MNNR**

THIS SUPPLEMENT ("SUPPLEMENTAL MAINTENANCE AGREEMENT"), made as of the 23 day of December, 2004, ("Execution Date") between **THE BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY** a Delaware corporation (hereinafter called "BNSF"), and **MINNESOTA COMMERCIAL RAILWAY COMPANY** a Minnesota corporation, (hereinafter called "MNNR").

WHEREAS, BNSF and MNNR are parties to an agreement dated December 19, 1990, as amended ("Trackage Rights Agreement") in particular amended on March 18, 1998 to provide MNNR an extension of trackage rights to facilitate access to MNNR's exclusively leased trackage within the Southeast Minneapolis Switching District; and

WHEREAS, BNSF and MNNR are parties to an agreement dated December 5, 1997 (Southeast Minneapolis Switching Agreement) that provided for the sale of certain BNSF trackage, and lease of underlying property, in the vicinity of Union Yard and the Southeast Minneapolis Switching District to MNNR as approved in STB Finance Docket 33606 by exemption issued June 11, 1998; and

WHEREAS, MNNR had been granted incidental trackage rights for a section of Joint Trackage to access the Southeast Minneapolis Switching District pursuant to the Supplemental Agreement dated March 18, 1998 ("1998 Supplemental Agreement")

WHEREAS, MNNR has requested the right to provide maintenance for said section of the Joint Trackage as provided in the 1998 Supplemental Agreement and BNSF is willing to

grant MNNR the right to perform maintenance on the Joint Trackage under the terms and conditions hereafter set forth.

WITNESSETH, that the parties hereto for the considerations hereinafter expressed covenant and agree as follows:

1. Effective as of the Effective Date, BNSF hereby grants to MNNR, and MNNR hereby accepts from BNSF, the exclusive right and obligation to maintain, repair and renew the Joint Trackage as defined below in Section 2.
2. The Joint Trackage to be maintained, repaired and renewed by MNNR ("MNNR Maintained Joint Trackage") is situated near Union Yard, Minneapolis, Minnesota, as shown in Exhibit "A" as attached. Said MNNR Maintained Joint Trackage begins at point "A", as marked on Exhibit "A", and runs westerly to a point "B", as marked on Exhibit "A", for an approximate total distance of 777 feet. Included in the MNNR Maintained Joint Trackage are three (3) switches identified as switch (a), (b) and (c) which are also to be maintained, repaired and renewed by MNNR. Maintenance from switches (b) and (c) shall be westward beyond each switch to the clearance point. Maintenance from switch (a) shall be eastward to the end of the switch ties. Switch (a) is equipped with a switch circuit controller. No maintenance, repair or renewal shall be performed by MNNR on switch (a) without the consent and presence of a BNSF signal employee. In the event work is to be done on switch (a), MNNR shall notify and coordinate such work with BNSF's signal department located at BNSF's office in Northtown, MN.

MNNR shall keep the Joint Trackage maintained to an FRA Class 1 standard with a gross weight limitation on the rail of 286,000 lbs.

3. MNNR agrees to maintain, repair and renew the MNNR Maintained Joint Trackage for the use of both parties at its own sole cost and expense. BNSF agrees to hold Section 2. of the 1998 Supplemental Agreement in abeyance while this Supplemental Maintenance Agreement is in effect and waive the flat rate sum of FIVE HUNDRED DOLLARS (\$500) PER annum. If, for whatever reason, this Supplemental Maintenance Agreement is terminated, Section 2. of the 1998 Supplemental Agreement shall again be in full force and effect and MNNR shall again be obligated to pay BNSF the flat rate sum of FIVE HUNDRED DOLLARS (\$500) PER annum.
4. Only in application to this Supplemental Maintenance Agreement and only in application to the MNNR Maintained Joint Trackage, and only in application to the maintenance, repair and renewal of the MNNR Maintained Joint Trackage, provisions of the Trackage Rights Agreement that pertain to maintenance, repair and renewal of trackage are hereby amended by (a) deleting the word "Owner" and substituting in its place the word "User" and (b) deleting the word "User" and substituting in its place the word "Owner", wherever they appear in such sections. (Section 2.1, 2.2, and 2.4)
5. This Supplemental Maintenance Agreement shall become effective on the date that all necessary consent, approval or authority of the transaction contemplated herein has been secured from any appropriate governmental agency or agencies (the "Effective Date") and shall remain in effect until terminated by either party as defined in section 6. hereinbelow. MNNR and BNSF shall jointly initiate by appropriate application or petition, and thereafter diligently prosecute, proceedings for the procurement of all necessary consent, approval or authority from any governmental agency for the sanction of this Supplemental Maintenance Agreement and the operations to be carried on or conducted by MNNR hereunder. MNNR and BNSF agree to cooperate fully to procure all such necessary consent, approval or authority; provided, however, BSNF shall coordinate such filings with MNNR at BNSF's expense.

Upon termination or expiration of this Supplemental Maintenance Agreement, for whatever reason, MNRR shall fully cooperate, consent, participate and jointly file with BNSF to obtain from the STB or other regulatory body having jurisdiction thereover authority to terminate and discontinue the rights granted herein in accordance with the terms of this Supplemental Maintenance Agreement. MNRR shall assist and support BNSF's filing and any associated proceedings to facilitate any termination or expiration, which shall include without limitation, furnishing information and executing and delivering any written instruments necessary to obtain such governmental authority. Such filing may, in BNSF's sole discretion, be prepared and made at any time after this Supplemental Maintenance Agreement has been terminated or expired. Such filing shall be coordinated by and at the expense of BNSF.

Upon termination of this Supplemental Maintenance Agreement, the Trackage Rights Agreement, as supplemented other than as by the Supplemental Maintenance Agreement, shall once again be in full force and effect. Any liability created under the Supplemental Maintenance Agreement shall survive any termination of the Supplemental Maintenance Agreement.

6. Either party may at any time and for any reason, or no reason whatsoever, terminate this Supplemental Maintenance Agreement by serving the other party ninety (90) days notice in writing of intent to terminate the same.
7. Other than as specifically modified herein, the Trackage Rights Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Maintenance Agreement to be duly executed as of the day and year first above written.

THE BURLINGTON NORTHERN AND
SANTA FE RAILWAY COMPANY

By: J. B. Valentine

Printed: D. B. VALENTINE

Title: APP CONTRACTS & JOINT FACILITIES

Date: 12/17/04

THE MINNESOTA COMMERCIAL RAILWAY COMPANY

By: John W. Bohmann

Printed: John W. Bohmann

Title: Pres

Date: 12/23/04

Exhibit "A"

